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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,046	01/16/2001	Robert Wessel	RWS-14863WO	2987

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SRAM CORPORATION
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EXAMINER

MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,046

Applicant(s)

WESSEL, ROBERT

Examiner

Timothy P McAnulty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 3-5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arbeiter in view of Seidler.

Arbeiter in figures 1, 3-5,7 and 10 discloses a bicycle shift mechanism comprising a housing 2 having an opening 13 configured to receive a control cable 8 that is routed within the housing and accessible through the opening and a closure 30 covering said opening, see lines 29-46 of column 6. Arbeiter does not disclose said closure member made from an elastomeric material connected to the housing via a holding member, said closure member having an extension, a thickened portion, a molded recess, an upper lip and a lower lip wherein said upper lip and said lower lip engage an edge of said opening. However, Seidler teaches in figures 1 and 3 a closure member 12 made of elastic material having a thickened extension 20 extending into a body 14, a hinge 18; an upper lip 26 which rests over the edge of an installation opening; and a lower lip 29 sliding under the edge of the installation opening. Therefore, it would have been obvious to one of ordinary skill in the art to modify the apparatus of Arbeiter in view of the teachings of Seidler to provide an easily installed closure having a hinge without the use of additional hardware so as to provide access to said opening without the necessity of removing said closure from said housing.

Regarding claim 6, the reference combination discloses the basic apparatus as previously cited but does not disclose said lower lip located at a point furthest away from said extension.

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However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the lower lip at a point farthest away from said extension, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

3. Claim 6 is also rejected under 35 U.S.C. 103(a) as being unpatentable over Arbeiter in view of Seidler as applied to claims 1, 3-5, and 7 and further in view of Robbins et al.

The reference combination previously set forth discloses the basic apparatus as previously cited but does not disclose the lower lip at a point furthest away from the extension. However, Robbins et al. teaches in figures 1 and 3 a hinged plastic cover including a lower lip that slides under the edge of an installation opening wherein the lower lip 138 is at a point furthest away from an extension 114. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the reference combination in view of the teachings of Robbins et al. to position the lower lip at a point furthest away from the extension to provide for a secure latch and tight seal around all edges of the installation opening.

Response to Arguments

4. Applicant's arguments filed 23 December 2003 have been fully considered but they are not persuasive. The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of the disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re Simon*, 174 USPQ (CCPA 1972); *In re McLaughlin*, 170 USPQ 209 (CCPA1971). References are evaluated by what they

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suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). As such the teachings of Seidler of a closure for an opening in a body are applicable to the disclosure of Arbeiter of a body having an opening.

Additionally, Seidler attempts to solve a similar problem as the present invention, that is, closure of an opening in a body. Seidler discloses in lines 23-33 of column 2 a "container [which] includes a hinged lid 12 and container body 14" and does not narrowly teach a clamshell type container. As such, the teachings of Seidler are reasonably pertinent to the particular problem with which the inventor was involved and are analogous art. *In re Wood*, 599 F.2d 1032, 202 USPQ 171, (CCPA 1979).

Conclusion

5. This is a continuation of applicant's earlier Application No. 09/744046. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

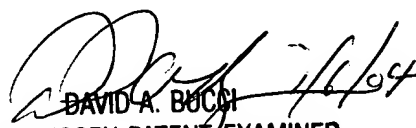
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684.

The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

tpm 
31 December 2003


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600